

REMARKS

Prior to the present response, claims 1-9 were pending in the present application. No claims are amended by the present response. Thus, claims 1-9 remain in the present application. Reconsideration and allowance of pending claims 1-9 in view of the following remarks are respectfully requested.

A. Rejection of claims 1-9 under 35 USC §102(b)

The Examiner has rejected claims 1-9 under 35 USC §102(b) as being anticipated by U.S. Patent Number 5,780,891 to Kauffman et al. (hereinafter "Kauffman"). For the reasons discussed below, Applicants respectfully submit that the present invention, as defined by independent claim 1, is patentably distinguishable from Kauffman.

In the remarks accompanying final rejection of previously presented independent claim 1, the Examiner states that Kaufman anticipates the present invention by disclosing:

a flash memory device, which comprises [The transitional term "comprising," which is synonymous with "including," "containing," or "characterized by," is inclusive or open-ended and *does not exclude additional, unrecited elements*] a substrate (fig. 3; col. 3, lines 45-47); a plurality of core stacks (i.e., figs. 6-8), wherein each core stack comprises a tunnel oxide layer 12 on the substrate (fig. 3; col. 3, lines 50-55); a first polysilicon layer 18 (fig. 3; col. 3, line 55) on the tunnel oxide layer; an antireflective interpoly layer 22 (fig. 3 and col. 4, lines 1-5 and col. 2; i.e., silicon oxynitride is the anti-reflective material, this is the intrinsic properties of the material) on the first polysilicon layer and a transmissive second polysilicon layer 26 (fig. 5 and col. 4, lines 27-50) on the anti-reflective interpoly layer; Page 2, item 2 of the Final Rejection dated November 15, 2007, internal quotations, paraphrasing, and use of italics reproduced from the original.

Although helpful and instructive, the quoted remarks are not entirely accurate with respect to the disclosure provided by Kauffman, as will be described further below. As a preliminary matter, Applicants call the Examiner's attention to previously presented claim 1 of the present application, which recites in part: "(2) a first polysilicon layer on the tunnel oxide layer; (3) an anti-reflective interpoly layer on the first polysilicon layer; and (4) a transmissive second polysilicon layer on the anti-reflective interpoly layer; . . ." In particular, Applicants respectfully request that the Examiner consider the use of the word "on", as it relates both to independent claim 1 of the present invention, and to the teachings of Kauffman. As may be apparent, "on" is used consistently in Kauffman and in the present application to refer to a particular element being atop and in contact with the element that it is "on." Moreover, "on" may be distinguished from the more general expression "over" by virtue of the characteristic of physical contact.

For example, when Kauffman discloses a first polysilicon layer 18 on the tunnel oxide layer 12, he is disclosing a first polysilicon layer 18 atop and in contact with the tunnel oxide layer 12. *See, e.g.,* Figure 3 of Kauffman. Similarly, when Applicants claim an anti-reflective interpoly layer 48 on the first polysilicon layer 46, Applicants are distinctly pointing out and claiming that in the present invention, the anti-reflective interpoly layer 48 is atop and in contact with the first polysilicon layer 46. *See, e.g.,* claim 1, and Figure 2 of the present application. As the Examiner has pointed out, in one embodiment, the silicon oxynitride layer is "the anti-reflective material" due to its "intrinsic" properties. *See, e.g.* page 2, item 2 of the Final Rejection dated November 15,

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2007. Thus, as disclosed and claimed by the Applicants, in the present invention the anti-reflective interpoly layer is atop and in contact with the first polysilicon layer. Further, when the first anti-reflective layer comprises a layer of silicon oxynitride, that silicon oxynitride layer is atop and in contact with the first polysilicon layer.

By contrast to the claims of the present application, and contrary to the Examiner's assertions quoted at the outset of this response, Kauffman does not teach disposition of a silicon oxynitride layer on a first polysilicon layer. Rather, Kauffman teaches that first silicon dioxide layer 20 (rather than an antireflective interpoly layer) is formed on first polysilicon layer 18. See, col. 3, lines 60-64, and Figure 3 of Kauffman. Subsequently, "oxynitride layer 22 is deposited over first silicon dioxide layer 20," (not first polysilicon layer 18). *Id.* at col. 4, lines 1-3, and Figure 3. In other words, Kauffman discloses forming his anti-reflective interpoly layer of silicon oxynitride atop and in contact with a layer of silicon dioxide, which is itself atop and in contact with a first polysilicon layer.

Furthermore, Kauffman is unequivocal in stating that the anti-reflective interpoly layer provided by silicon oxynitride is not to be conflated or confused with other interpoly materials: "In the present invention, by contrast, the oxynitride film is a separate and distinct compound deposited over the underlying layer of silicon dioxide." *Id.* at column 2, lines 47-50. Thus, Kauffman fails to teach, disclose, or suggest an anti-reflective interpoly layer on a first polysilicon layer, as claimed by independent claim 1 defining the present invention.

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For the foregoing reasons, Applicants respectfully submit that the present invention, as defined by previously presented independent claim 1 is patentably novel and inventive over Kauffman. As a result, claims 2-9, depending from independent claim 1, are also patentably novel and inventive over Kauffman for the additional limitations contained in each dependent claim.

B. Conclusion

Based on the foregoing reasons, the present invention, as defined by previously presented independent claim 1 and claims depending therefrom, is patentably distinguishable over the art cited by the Examiner. Thus, claims 1-9 pending in the present application are patentably distinguishable over the art cited by the Examiner. As such, and for all the foregoing reasons, allowance of claims 1-9 pending in the present application is respectfully requested.

***** IMPORTANT NOTE: *****

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Respectfully Submitted,
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